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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/550,337

09/22/2005

Richard J. Caldwell

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EXAMINER

GUZMAN, APRIL S

ART UNIT

PAPER NUMBER

2618

MAIL DATE

DELIVERY MODE

04/01/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/550,337	Applicant(s) CALDWELL ET AL.	
	Examiner APRIL S. GUZMAN	Art Unit 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-19 and 21-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-19 and 21-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/20/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/11/2008 has been entered.

Response to Amendment

The Examiner acknowledges the receipt of the Applicant's amendment filed on 11/11/2008. Claims 1-2, 4-5, 8, 14-16, 18-19, 21-23, and 28 have been amended. Claims 6 and 20 have been canceled. **Claims 1-5, 7-19 and 21-28** are therefore currently pending in the present application.

Response to Arguments

Applicant's arguments with respect to claims 1-5, 7-19 and 21-28 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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Claims 1 and 15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Independent claim 1 recites "transmitting a first signal in accordance with the first predetermined signaling protocol and at a time selected to interfere with *only a portion of a transmission made by the radio terminal*" (emphasis added). The claim contains subject matter which was not disclosed in the specification.

Similarly, independent claim 15 recites "wherein the means for transmitting the first signal in accordance with the first predetermined signaling protocol is adapted to transmit the first signal concurrently with *only a portion of a transmission made by the radio terminal* accordance with the first predetermined signaling protocol" (emphasis added). The claim contains subject matter which was not disclosed in the specification.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-5, 7-19 and 21-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawyer et al. (WIPO Pub. No. WO 01/69864) herein referred to as Sawyer, and further in view of Shepherd et al. (WIPO Pub No. WO 01/31960) herein referred to as Shepherd.

Consider claim 1, Sawyer teach a method of protecting an apparatus from radio frequency interference in a predetermined radio frequency band, comprising, at a policing terminal (read as monitoring device 20),

detecting the presence of a radio terminal operable to generate interference in the predetermined radio frequency band in accordance with a first predetermined signaling protocol (page 5 lines 22-28 and page 6 lines 14-28).

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However, Sawyer fail to teach transmitting a first signal in accordance with the first predetermined signaling protocol and at a time selected to interfere with only a portion of a transmission made by the radio terminal, wherein, in response to transmitting the first signal, the radio terminal is inhibited as a source of interference.

In the related art, Shepherd teach transmitting a first signal in accordance with the first predetermined signaling protocol and at a time selected to interfere with only a portion of a transmission made by the radio terminal, wherein, in response to transmitting the first signal, the radio terminal is inhibited as a source of interference (page 6 lines 13-21, page 6 lines 25-30 and page 7 lines 1-10).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Shepherd into the teachings of Sawyer for the purpose of controlling operations of a device within a restricted area comprising means for detecting the presence of the device and means for instructing the device to restrict its operation.

Consider claim 2, as applied to claim 1, Sawyer as modified by Shepherd further teach wherein detecting the presence of the radio terminal comprises detecting a second signal transmitted by the radio terminal in accordance with the first predetermined signaling protocol (Shepherd – page 7 lines 1-10).

Consider claim 3, as applied to claim 2, Sawyer as modified by Shepherd further teach wherein transmission of the second signal is responsive to a third signal transmitted by the policing terminal (Sawyer – page 5 lines 22-28, page 6 lines 15-21, and page 6 lines 25-28; Shepherd – page 7 lines 1-10).

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Consider claim 4, as applied to claim 1, Sawyer as modified by Shepherd further teach wherein the first signal includes a message selected from the first predetermined signaling protocol (Sawyer – page 5 lines 23-25, page 6 lines 14-16, and page 6 lines 22-24).

Consider claim 5, as applied to claim 4, Sawyer as modified by Shepherd further teach wherein the message includes a command to disconnect from a communication (Sawyer – page 6 lines 19-28).

Consider claim 7, as applied to claim 1, Sawyer as modified by Shepherd further teach wherein the portion is at least one of a preamble, synchronization word, address field or header field (Shepherd – page 6 lines 1-9 and page 7 lines 3-6).

Consider claim 8, as applied to claim 4, Sawyer as modified by Shepherd further teach wherein the first predetermined signaling protocol is a networking protocol, the policing terminal is equipped to operate in accordance with the first predetermined signaling protocol, and the policing terminal joins a network comprising the radio terminal prior to transmitting the message (Sawyer – page 4 lines 6-14).

Consider claim 9, as applied to claim 8, Sawyer as modified by Shepherd further teach wherein the policing terminal becomes a master station in the network prior to transmitting the message (Shepherd - page 5 lines 1-6).

Consider claim 10, as applied to claim 2, Sawyer as modified by Shepherd further teach wherein detecting the presence of the radio terminal comprises detecting from the second signal the address of the radio terminal (Shepherd – page 7 lines 1-10).

Consider claim 11, as applied to claim 2, Sawyer as modified by Shepherd further teach wherein the detecting the presence of the radio terminal comprises determining a frequency hop

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sequence in use by the radio terminal (Sawyer – page 5 lines 11-14 and page 5 lines 21-28; Shepherd - page 5 lines 20-29 and page 6 lines 1-8).

Consider claim 12, as applied to claim 1, Sawyer as modified by Shepherd further teach wherein the first signal is modulated with noise (Sawyer - page 4 lines 21-26).

Consider claim 13, as applied to claim 1, Sawyer as modified by Shepherd further teach wherein the policing terminal is a component of the apparatus being protected (Sawyer – page 6 lines 15-28).

Consider claim 14, as applied to claim 1, wherein the apparatus is equipped to operate in accordance with a second predetermined signaling protocol (Sawyer – page 4 lines 6-14).

Consider claim 15, Sawyer teach the policing terminal (PT) (read as monitoring device 20) for protecting an apparatus from radio frequency interference in a predetermined radio frequency band, comprising means for detecting the presence of a radio terminal operable to generate interference in the predetermined radio frequency band in accordance with a first predetermined signaling protocol (page 4 lines 6-14, page 5 lines 5-10, page 5 lines 23-28, and page 6 lines 14-28).

However, Sawyer fail to teach means for transmitting a first signal in accordance with the first predetermined signaling protocol to inhibit the radio terminal as a source of interference wherein the means for transmitting the first signal in accordance with the first predetermined signaling protocol is adapted to transmit the first signal concurrently with only a portion of a transmission made by the radio terminal in accordance with the first predetermined signaling protocol .

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In the related art, Shepherd teach means for transmitting a first signal in accordance with the first predetermined signaling protocol to inhibit the radio terminal as a source of interference wherein the means for transmitting the first signal in accordance with the first predetermined signaling protocol is adapted to transmit the first signal concurrently with only a portion of a transmission made by the radio terminal in accordance with the first predetermined signaling protocol (page 6 lines 13-21, page 6 lines 25-30 and page 7 lines 1-10).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Shepherd into the teachings of Sawyer for the purpose of controlling operations of a device within a restricted area comprising means for detecting the presence of the device and means for instructing the device to restrict its operation.

Consider claim 16, as applied to claim 15, Sawyer as modified by Shepherd further teach wherein the means for detecting the presence of the radio terminal is adapted to detect a second signal transmitted by the radio terminal in accordance with the first predetermined signaling protocol (Shepherd – page 7 lines 1-10).

Consider claim 17, as applied to claim 16, Sawyer as modified by Shepherd further teach comprising means for transmitting a third signal for eliciting transmission of the second signal (Sawyer – page 5 lines 22-28, page 6 lines 15-21, and page 6 lines 25-28; Shepherd – page 7 lines 1-10).

Consider claim 18, as applied to claim 15, Sawyer as modified by Shepherd further teach wherein the means for transmitting the first signal is adapted to transmit a message selected from the first predetermined signaling protocol (Sawyer – page 5 lines 22-28, page 6 lines 15-21, and page 6 lines 25-28; Shepherd – page 7 lines 1-10).

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Consider claim 19, as applied to claim 18, Sawyer as modified by Shepherd further teach wherein the message includes a command to disconnect from a communication (Sawyer – page 6 lines 19-28).

Consider claim 21, as applied to claim 15, Sawyer as modified by Shepherd further teach wherein the portion is at least one of a preamble, synchronization word, address field of header field (Shepherd – page 6 lines 1-9 and page 7 lines 3-6).

Consider claim 22, as applied to claim 18, Sawyer as modified by Shepherd further teach wherein the first predetermined signaling protocol is a networking protocol, the policing terminal comprises means for operating in accordance with the first predetermined signaling protocol, and the means for operating is adapted to join a network comprising the radio terminal prior to transmission of the message (Sawyer – page 4 lines 6-14).

Consider claim 23, as applied to claim 22, Sawyer as modified by Shepherd further teach wherein the means for operating in accordance with the first predetermined signaling protocol is adapted to become a master station in the network prior to transmission of the message (Shepherd - page 5 lines 1-6).

Consider claim 24, as applied to claim 16, Sawyer as modified by Shepherd further teach wherein means for detecting the presence of the radio terminal is adapted to determine from the second signal the address of the radio terminal (Shepherd – page 7 lines 1-10).

Consider claim 25, as applied to claim 16, Sawyer as modified by Shepherd further teach wherein the means for detecting the presence of the radio terminal is adapted to determine a frequency hop sequence in use by the radio terminal (Sawyer – page 5 lines 11-14 and page 5 lines 21-28; Shepherd - page 5 lines 20-29 and page 6 lines 1-8).

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Consider claim 26, as applied to claim 15, Sawyer as modified by Shepherd further teach wherein the means for transmitting the first signal is adapted to modulate the first signal with noise (Sawyer - page 4 lines 21-26).

Consider claim 27, as applied to claim 15, Sawyer as modified by Shepherd further teach an electronic apparatus comprising the policing terminal (Sawyer – page 6 lines 15-28).

Consider claim 28, as applied to claim 15, Sawyer as modified by Shepherd further teach a wireless network operable in accordance with a second signaling protocol and comprising the policing terminal (Sawyer – page 3 lines 5-10; Shepherd – page 5 lines 14-17).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: see PTO-892 Notice of References Cited.

Any response to this Office Action should be **faxed to** (571) 273-8300 **or mailed to:**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to April S. Guzman whose telephone number is 571-270-1101. The examiner can normally be reached on Monday - Thursday, 8:00 a.m. - 5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Anderson can be reached on 571-272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/April S. Guzman/
Examiner, Art Unit 2618

/Matthew D. Anderson/
Supervisory Patent Examiner, Art Unit 2618